

SJ 7 Options for Background Checks

Disqualifying Events Exist for All Options

Option 1

Full Fingerprint Background Check

- Staff for all designated service providers would be subject to fingerprint checks
- Checks could be National (FBI) or Western Identification Network WIN states only (Alaska, Utah, Wyoming, Nevada, Oregon, Idaho, Montana)
- Establishes a registry of all direct care access workers' fingerprint check results

Option 2

Criminal Background Check Required & the State Prescribes a Process of a Progressive Check

- Establishes a risk analysis process for criminal background checks beginning with a name based check through the DOJ
- Staff for all designated service providers would be subject to checks
- Begin with a name based check if applicant has lived only in MT for the past 5-10 years
- If the name based check reveals any criminal activity, a full fingerprint background check is required.
- If the applicant has moved to MT within the last 5 -10 years and is from a WIN state, a WIN state fingerprint check is required
- If the applicant has moved to MT within the last 5 – 10 years and is from a non WIN state, a full FBI fingerprint check is required

Option 3

Some type of Criminal Background Check Required. Employer has policies and procedures to determine their process. DPHHS will explain possibilities but the employer will decide.

- Staff for all designated service providers would be subject to checks
- Possibilities include named based check, use of a private background check co., WIN state check, full FBI check.
- Reference checks alone are not sufficient
- If the applicant is from another state, a MT name based check is not sufficient

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OPTION 1

Pros

- * Extends beyond current requirements for licensing requirements
- * Fingerprints provide the most reliable result to identify an individual
- * Alerts employer to inaccurate information provided such as misspelled names and inaccurate social security numbers
 - * Includes aliases, charges pending
 - * Does not preclude the employer from performing an additional type of background check
 - * Only method available to obtain a national check

Cons

- ~ Cost of processing the check & the variable cost of obtaining fingerprints
- ~ May create fear about privacy issues and the security of the results
- ~ Requires an administrative process for handling the information
- ~ Increased workload and fiscal impact to DOJ
- ~ Considered invasive by some
- ~ May deter applicants because of waiting period for prints to be processed
- ~ May present a burden to employer due to timeliness of fingerprint process.
 - ~ Fingerprints might need to be rerolled, and for a select few, fingerprints will be impossible to obtain. At that point, a Federal name based check would be completed.
- ~ Requires statutory change to meet PL 92-544 requirements

OPTION 2

Pros

- * Extends beyond current requirements for licensing requirements
- * Not as invasive to MT residents
- * Should capture those coming from another state with a criminal history
- * Turn around time for name based checks may be faster than fingerprints
- * Does not preclude the employer from performing an additional type of background check
- * May be less costly than Option 1
- * May be more timely than Option 1
- * If fingerprints are required, the same Pros as Option 1 would apply
- * Empowers employers to direct their own hiring practices

Cons

- ~ MT name based check through DOJ only identifies crimes committed in MT
- ~ May not identify a crime committed in another state even if perpetrator was a MT resident
- ~ Might require start-up education & training for employers
- ~ Requires a risk analysis by the employer to determine MT residency
- ~ If fingerprints are required, the same cons as Option 1 would apply
- ~ Name based checks are subject to the accuracy of the information provided by the applicant; increased chance of false or missed matches
- ~ Employer will be required to benchmark a crime against a list of disqualifying events
- ~ May take more time & resources in managing and verifying information provided by applicant
- ~ Requires statutory change to meet PL 92-544 requirements if fingerprint based

OPTION 3

Pros

- * Extends beyond current requirements for licensing requirements
- * Based on self reported behavior
- * Gives employers discretion with their own hiring practices
- * Less costly than options 1 & 2 both administratively (STATE) and to the employer; employer controls cost
- * Does not preclude the employer from performing an additional type of background check
- * May require less time to receive a report

Cons

- ~ Requires that employer make a risk assessment of the applicant and the appropriate of type f check needed to ensure resident/patient/client safety
- ~ Inconsistent process with services delivery providers
- ~ Least dependable of the three options for providing accurate information regarding criminal history
- ~ MT name based check through DOJ only identifies crimes committed in MT
- ~ Some employers may not be as diligent as others, and the vulnerable populations may be at risk
- ~ Name based checks are subject to the accuracy of the information provided by the applicant
- ~ Requires a risk analysis by the employer to determine MT residency
- ~ May be less portable if employee moves to another facility since no registry exists
- ~ Private background check co. unable to access information from the 7 states that do not share criminal conviction information
- ~ Requires statutory change to meet PL 92-544 requirements if fingerprint based